

2025:PHHC:057275



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23521-2025
DECIDED ON: 02.05.2025

NARESH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sant Lal Barwala, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.211, dated 27.03.2025, under Section 20(b) of NDPS Act, 1985, registered at Police Station City Hansi, District Hisar.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“TO, the SHO Sir, Police station city: Hansi, Jai Hind, Yesterday on 26.03.2025, I along with SI Vinod 616/Hansi, Constable Sandeep No. 735, SPO Sandeep Kumar 88/ Hansi along with laptop and printer in government vehicle no. HR-21-GV - 6335 driver Constable Mohit No. 537/Hansi were present on patrol at Tosham Road, near Haryana Gaushala, Hansi, that a special informer met and informed that Vinod son of Shyoram resident of Katwar district Bhiwani and Bhupendra son of Subhash resident of village Hetampura district Bhiwani, vehicle no. HR48E5622, brand Honda Image Ba white in colour, smuggle drugs and will come from Tosham to Hansi to sell the drugs. If an immediate blockade is done, they can be caught along with the drugs.

The information is certain and strong. An information letter under section 42(2) NDPS Act was prepared and sent to SPO Sandeep 88/Hansi, Managing Officer, Police Station City Hansi, for information to the officers. Then the SI tried to form a raiding party comprising passersby but all of them expressed their compulsion saying that there was lack of time and left the spot. Then the SI after fully informing his fellow employees about the information, reached along with his fellow employees, in front of saini Shuddh Veshno Dhaba, Hansi, to set up a blockade for the government vehicle. After setting up the blockade, we started monitoring the vehicles coming from Tosham as per the informer. After some time, a vehicle no. HR48 E5622 brand Honda Image Ba white colour vehicle which the SI signaled to stop by switching on the battery, who on seeing the police party tried to turn his vehicle but suddenly the vehicle stopped, upon which the si with the help of a fellow officer controlled the vehicle and asked the name and address of the driver who told his name as Vinod son of Shyoram resident of Katwar district Bhiwani and the young boy sitting on the side seat told his name as Bhupendra son of Subhash resident of village Hetampura district Bhiwani. The SI suspected that Mr. Vinod and his vehicle or Mr. Bhupendra above mentioned person had narcotics on which the SI issued a notice to Mr. Vinod above mentioned under section 50 of NDPS Act that "I am SI Suresh Kumar No. 65/FTB Incharge Anti Narcotics Cell Hansi, I inform you Vinod son of Shyoram resident of Katwar District Bhiwani, Bajaria, that I suspect that you are in possession of such narcotic substance which comes under the category of narcotic drugs. Therefore, your personal search and your vehicle no. HR48E5622, brand Honda Image Ba, white colour, is to be conducted. You have the legal right that if you wish to get your person and vehicle searched in front of a gazetted officer or a magistrate, he can be called on the spot for the search or you and your vehicle can be produced before them for search. The notice has been read out and explained to you. You should be informed about Notice 50 of NDPS Act. Notice under Section 50 of NDPS Act has been prepared." On the notice 50 NDPS Act, the above mentioned person and the witnesses put their signatures. Then, after thinking for a while, the above mentioned person got his reply written in relation to the notice given to him by saying that "I, Vinod, son of Shyoram, resident of Katwar, district Bhiwani, have heard and understood your notice under section 50 NDPS Act very well. I want to get my personal property and my vehicle no. HR48E5622, brand Honda Image Ba, white in colour, searched in front of a gazetted officer. He should be called on the spot. The reply notice under section 50 NDPS Act was written word for word as per the words of the above mentioned person. The reply notice was read out and explained to the above mentioned person, which was accepted by the above mentioned person as correct. The reply notice under section 50 NDPS Act has been prepared. The above mentioned person and the witnesses put their signatures. Then the SI gave notice to the above mentioned person Bhupendra under section 50 of NDPS Act that "I, SI Suresh Kumar No. 65/FTB in-charge Anti Narcotics Cell Hansi, inform you Bhupendra son of Subhash resident of village Hetampura district Bhiwani, Bajaria, that I suspect you to have such a narcotic substance which comes under the category of narcotic drugs. Therefore, your personal search has to be conducted. You have the legal right that if you want your personal search to be done in front of a gazetted officer or magistrate, then he can be called on the spot for search or you can be produced before him for search. The notice has been read out and explained to you. You should be informed about the notice under section 50 of NDPS Act. Notice under section 50 of NDPS Act has been prepared." The above mentioned person

Bhupendra and the witnesses signed the notice under section 50 of NDPS Act. Then, after thinking for a while, the above mentioned Muslim Bhupendra wrote his reply regarding the notice given to him under Section 50 of the NDPS Act by saying that "I, Bhupendra, son of Subhash, resident of village Hetampura, district Bhiwani, have very well heard and understood your notice under Section 50 of the NDPS Act. I want my personal search to be done in front of a gazetted officer. He should be called on the spot. The reply notice under Section 50 of the NDPS Act was written word for word as spoken by the above mentioned Muslim Bhupendra. The reply notice was read out and explained to the above mentioned Muslim Bhupendra, Which has been accepted as correct by the above mentioned person. A reply notice has been prepared under section 50 of NDPS Act. " On the notice reply 50 NDPS Act, Muslim Bhupendra and the witnesses signed their respective signatures. Thereafter, as per the list of gazetted officers issued by Deputy Commissioner Mohd Hisar, the SI at 9.33 PM from his mobile number 70155-59572 contacted the gazetted officer Shri Ravindra Sharma, Naib Tehsildar Barwala on phone number 98713-15909 and informed him about the situation and requested him to reach the spot, who told that I am reaching the spot. During this, SPO Sandeep 88/Hansi after getting the information letter registered under section 42(2) NDPS Act, brought the diary number 79 dated 26.03.2025 from Police Station City Hansi and handed it over to the SI, which was kept awaited today on 27.03.2025, Shri Ravindra Sharma, Naib Tehsildar Barwala at 12.05 AM. He reached the spot in his official vehicle no. HR 80GV-8888 along with the driver. After making them aware of the situation, the Si presented the notice and reply notice 50 NDPS Act. On which the gazetted officer read out the notice and reply notice 50 NDPS Act and signed it. Then on the search offered by the gazetted officer Shri Ravindra Sharma, Naib Tehsildar Barwala, the gazetted officer searched the SI and as per his instructions, the search of the fellow employee was carried out by me and I. During the search, no narcotic substance related material was recovered from me and my team. On which a report of search offer and recovery was prepared. On which the witnesses put their signatures and the gazetted officer verified it. Then as per the instructions of gazetted officer Shri Ravindra Sharma, Naib Tehsildar Barwala, personal search of the above mentioned person was conducted by the SI from which no narcotic substance was recovered. The above mentioned person was searched by the SI. The above mentioned person was searched by the SI from which no narcotic substance was recovered. The above mentioned person was searched by the SI from which no narcotic substance was recovered. Then the SI searched the vehicle of the above mentioned person, namely Honda Image HR48E5622, brand Honda Image BR... The veranda ganja sack, plastic color yellow palanda was prepared and the palanda was stamped with his seal SK/3 and sample seal was prepared and after sealing, for use and keeping, the sample seal was handed over to SI Vinod 616/Hansi and gazetted officer Shri Ravindra Sharma, Naib Tehsildar Barwala also stamped the palanda and sample seal with his seal RK/1 and after sealing, kept it with himself. Then the SI stamped the palanda, plastic color yellow ganja weighing 16 kg 671 grams with his seal SK/3, RK/1 registered with sample seal along with vehicle no. HR48E5622 brand Honda Image Ba colour white along with original RC vehicle was taken into police possession as evidence through property seizure form. The above mentioned persons Vinod and Bhupendra and the witnesses signed on the property seizure form and the gazetted officer verified the property seizure form, Palanda goods case and sample seal. The e-evidence video made by the SI regarding property seizure

under section 105 BNSS was fully complied with. The above mentioned persons Vinod and Bhupendra have committed the crime under section 20B-61-85 NDPS Act by keeping a total of 16 kg 671 grams of narcotic substance ganja in their Possession. The complaint for registration of case is being sent to government police station Hansi through SI Mohit 537/Hansi along with the vehicle. After registration, the case number should be informed through the form and next investigator should be sent to the spot. I SI along with my staff, residents and goods are at the spot for investigation of the case. ”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused Vinod and the recovery of contraband i.e., 16 kg 671 grams of Ganja was not effected from his possession, which is non-commercial in nature. He undertakes on behalf of the petitioner that he is ready and willing to join the investigation.

Notice of motion.

On behalf of the State/complainant

On the asking of Court, Mr. Chetan Sharma, DAG Haryana notice on behalf of respondent/State. He prays for dismissal of the present petition on the ground that the petitioner is a habitual offender, as he is involved in another FIR No.240 dated 13.04.2020 under Section 174-A of IPC.

4. **Analysis**

Having given due consideration to the submissions made above, particularly the fact that no contraband was recovered from the petitioner and that his involvement arises solely on the basis of disclosure statement suffered by co-accused Vinod, who was apprehended at the spot, this Court is of the opinion that custodial interrogation of the petitioner is not warranted, as State would not point out any incriminating material against the petitioner.

In the light of above, this Court is of the considered view that there is no valid or cogent reason to deny the bail to the present petitioner, wherein he has *bona fide* intentions and is ready and willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “***Baljinder Singh alias Rock vs. State of Punjab***” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

5. **Relief:-**

Hence, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

02.05.2025

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>